

Arizona Midyear WTR PPG Review & SFY21/22 WTR PPG Negotiations
March 16 - 17, 2020
Key Findings

WTR PPG Work Plan Concerns

- WTR Programs are currently reviewing the Draft SFY21/22 PPG work plan. Comments are due to ADEQ on 3/31/2020.
- Initial feedback notes that Value Stream tasks/subtask are too vague. For example: 4S00 (Water Quality Division) *Manage division rules agenda*- what is the relationship between this section and each programmatic area? How should EPA evaluate these tasks? What resources are dedicated to it? What is the priority for rule reviews? ADEQ should project rule reviews for the year.
- There still appears to be a lack of information noting PPG vs. no PPG fund tasks.
- The PPG work plan should exclude items that EPA is not funding (through PPG funds, stand-alone EPA grants or recipient share (match) dollars) and therefore lacks grant-related oversight, i.e. SRF and Water Reuse.
- Narrative explanation of overall program performance with goals and objects (including staff and other resources) should be part of the PPG. This will help EPA understand what specific tasks EPA \$ are funding while also getting needed information on the overall health on a program.

Groundwater & Drinking Water Branch

PWSS

- Provides financial assistance to small systems that could not access DW SRF loan program.
- Targets the most critical systems in non-compliance using KOUI criteria.
- Performs root cause analysis of non-compliance by staff from enforcement, compliance assistance, engineering review units.
- Uses a model to prevent water systems from exceeding the Arsenic MCL.
- Uses visual management tools and Lean Leader Behaviors such as daily huddle meetings to identify problems, remove obstacles, and drive down non-compliance.

GW/APP

- ADEQ/EPA staff working well on UIC/APP oversight coordination.
- ADEQ/EPA staff working collaboratively on UIC Primacy efforts.
- More discussion/negotiation on the Ground Water Value Stream tasks for the draft SFY21/22 is needed.

Tribal and State Assistance Branch

NPS

- Mid Year report is missing updates in many areas or more information is needed to understand task/deliverable status.
- Some deliverables are late.
 - NPS Plan is expired – Draft delayed over a year.
 - NPS Annual report is late. Used to be due in September but moved to January to help ADEQ.
- NPS Program Development:
 - NRCS is still absent, our offer to reach out to them still stands.
 - R9 would like to be kept in the loop on on-the-ground projects, state multi-agency NPS meetings, etc.

- Update missing for grant cycle 22 – Obligating NPS funds has been an issue the past two years, it's important that this status is up to date.
- General:
 - What are the cost savings for unfilled positions and abandoned tasks? What is being done in their place?

SRF

- There are several instances where WIFA information/tasks are included in the draft SFY21/22 work plan. All SRF monies/projects need to be tracked outside of the PPG workplan.

Surface Water Branch

WQS

- **Highlights:** WQS Amendments and N-STEPS
 - ADEQ transmitted WQS updates and amendments to EPA in late 2019, 60 days ahead of schedule, capping off a 2 year stakeholder engagement process. Large package, significant accomplishment.
 - ADEQ has made progress on numeric nutrient standards for rivers and streams, and lakes and reservoirs through EPA's N-STEPS program and regional support.
- Workplan Progress and Concerns
 - Numeric Nutrient Criteria - Good progress -- important to continue to get a numeric criteria in 12-24 months
 - TR & WQS amendment submissions
 - Submission challenges with the combined Triennial Review and WQS package include the large number of revisions in a single package (over 200 actions), version control, short review time frames afforded to EPA for drafts. EPA continues to review this package, however we are now in backlog due to workload and challenges with the submission.
 - EPA would like to continue to discuss with ADEQ options for submitting smaller packages – (as completed) rather than all at once every 3 years in conjunction with Triennial Review.

Monitoring

Highlights

- Data is flowing well to WQX, ADEQ is working to maintain the successful updates from last SFY. Good work!
- The CRAN R assessment programs crafted by ADEQ have drastically reduced the assessment time for the department, from months to minutes. A huge improvement!

Workplan Progress and Concerns

- ADEQ provided EPA with its Draft IR in Dec. 2019. The Draft IR assessed waters against unapproved WQS (submitted to EPA for review about the same time). EPA has clearly communicated to ADEQ we cannot approve IRs based on unapproved WQS and advised delaying their IR process. ADEQ may need to update their draft based on EPA actions on the WQS package. This means their IR will be late.
- ADEQ and EPA are working to consolidate monitoring reporting requirements to support the overall health of the program. Let's continue. Need to work together to ensure the AZ Sampling and Analysis Plan (SAP) are not out of alignment with CWA 303(d) and 305(b) requirements, as noted during the previous midyear and EOY.

Expectations for new workplan

- Improving clarity and level of detail and schedules – both ADEQ and EPA need more clarity in the workplan for it to be effective. ADEQ (JJ) wants clarity of deadlines, EPA wants clarity of milestones and deliverables, jargon conflicts, cumbersome workplan w/o clear tasks, and to reduce duplication of items to assist management on both sides
- EPA is asking for different Quarterly monitoring reports from ADEQ, we have discussed with ADEQ, the info is avail and should not be a burden.
- ADEQ is expected to deliver the draft 10-year Comprehensive Monitoring Strategy to EPA at the end of June 2020. Status?

TMDLs – New manager at ADEQ: Natalie Muilenberg

Highlights

- The Santa Cruz River TMDL for escherichia coli was approved! Congrats to Jason Sutter and team on ADEQ's first TMDL submission and approval since the Little Colorado River TMDL in fall 2013.

Workplan Progress and Concerns

- Delayed Progress on TMDL program
 - Pinto Creek and Queen Creek TMDLs have remained on the workplan since 2003, as noted at the last EOY and previous midyear.
 - Following long delays and lack of progress despite workplan commitments, ADEQ is proposing the San Pedro River TMDL effort may be reduced to smaller sub-watershed effort.
 - EPA would like to see forward momentum in ADEQ's TMDL program and realistic workplan commitments with milestones to show progress.
- Role of planning, monitoring and the IR
 - EPA encourages better CWA Program integration (NPS, TMDLs, Monitoring to reduce silos)
 - EPA has concerns over ADEQ approach to implementation without/before planning – would like to clarify if implementation activities are permanent fixes or short term actions. EPA has concerns that targeted ambient sampling may show improvements that would appear to meet standards (but is actually still impaired). Such a sampling plan might show false results, suggesting a de-listing where impairments still exist. EPA needs to better understand ADEQ approach.

Expectations for new workplan

- Need realistic firm commitments to make progress in TMDL Program, with schedule

AZPDES

- ADEQ's AZPDES Permitting implements section 402 of the Clean Water Act (CWA) in Arizona. The current universe of AZPDES permits both individual and general is 151 permits. In SFY20, ADEQ continued to issue good quality permits in a timely manner, meeting the national performance target of 90% current. Currently the permits current rate is 91.3%.
- ADEQ's total % current includes 100% current major and minor individual permits, with 58/58 major individual permits and 76/76 minor individual permits current. Most of the backlog is due to the expired Phase I MS4 individual permits 7 out of 8 of which are expired and General permits of which 6 out of 9 are expired.

- One of the key deliverables that ADEQ was able to meet was the issuance of the renewed MSGP permit in May 2019. However, there was some concern about when and how it will be implemented due to several factors including uncertainty over the Waters of the U.S. rule and questions about the electronic reporting system for the MSGP. ADEQ implemented the eNOI system and it went live early in January 2020, and by enrollment deadline of end of February 2020, nearly 60% of the filers under the previous permit had enrolled electronically. However, 40% were not yet enrolled. ADEQ should quantify what percentage of these are simply late, and what percentage now no longer seek coverage due to anticipated changes in the definition of WOTUS.
- Another concern is the re-issuance of the Construction General Permit. After public notice of the 2019 draft permit, ADEQ received feedback that many of their customers prefer the 2013 permit. ADEQ held workshops with stakeholders and re-public noticed the CGP with the necessary updates. EPA provided input as well, and ADEQ made changes to the draft in response. The targeted issuance date is April 2020.
- Similarly, ADEQ has public noticed the Biosolids General Permit, and stakeholders as well as EPA provided comments. The targeted issuance date is July 2020.
- ADEQ will next tackle issuance of the Pesticide General Permit following the issuance of the CGP and Biosolids GP. The targeted issuance date is December 2020. It will thus be completed in SFY21.
- For the infrequent dischargers and minor WWTP General Permits, ADEQ has decided to convert them to individual permits, due to low number of filers under the GPs, or has not been able to proceed towards re-issuance due to a variety of factors, including staffing resources.
- MS4 Phase I permits another major source of backlog with 7 out of 8 backlogged. ADEQ has decided to issue individual permits instead of a MS4 Phase I General Permit. ADEQ is focusing issuing individual MS4 Phase I individual permits for City of Tucson and Pima County by June 2020 as there is unlikely to be any WOTUS issue related to these permits. As for the other pending individual MS4 Phase I permits, ADEQ will assess WOTUS impacts and determine schedules for issuance. Both these actions should be a priority for the rest of SFY20.

SFY21 Priorities

- ADEQ should prioritize getting the eNOI system set up and working for the Construction GP and the Biosolids GP during SFY21.
- ADEQ should also prioritize the remaining 6 Phase I MS4 individual permits. ADEQ should work simultaneously on renewing the City of Tucson and Pima County Phase I MS4 permits which are projected to be issued by mid 2020 while also studying the potential Navigable Waters Protection Rule (NWPR) issues as they relate to the issuance of the remaining individual 6 Phase I MS4 permits. ADEQ should develop a plan of issuance/termination for these 6 Phase I MS4 permits as may be the case.
- ADEQ will need to expend considerable resources to determine Waters of the State within Arizona and how they will complement the Waters of the United States, following the adoption of the NWPR. EPA's

NPDES program will work cooperatively with EPA's standards program as well as ADEQ to facilitate this process.

Wetlands

- ADEQ began a process to assume the 404 permitting program in 2018 with the intention of submitting a request to EPA by Summer 2020. They released an Assumption Roadmap document (Fall 2019) and based on public feedback and the expected narrowing of WOTUS, ADEQ decided in December 2019 to not continue pursuing state assumption. All relevant deliverables were received and ADEQ has deleted the remaining tasks from the SFY 21/22 PPG workplan.
- ADEQ administers the 401 Water Quality Certification program and is required to report certification decisions semiannually. To date for FY20, ADEQ issued 5 Nationwide Permits, 6 Regional General Permits and 3 Individual Permits. ADEQ is also required to coordinate with EPA prior to issuance of 401 certifications for projects where EPA has raised water quality concerns. ADEQ has appropriately coordinate with EPA during the 401/404 process resulting in better decision-making. (see state reporting on back)
- §401 certifications may include monitoring requirements and compensatory mitigation if a state believes them necessary to comply with the CWA or appropriate state requirements. However, ADEQ's statutory authority limits their review to activities conducted only within the OHM and in the absence of state rules they can't require reporting or monitoring. EPA has encouraged ADEQ to develop implementing regulations to expand their 401 authority to ensure compliance with water quality standards. ADEQ maintains staffing constraints limit their ability to pursue rulemaking.
- A rapid assessment methodology for monitoring wetland conditions in AZ is being developed through a grant with the Southern California Coastal Water Research Project (SCCWRP). ADEQ bioassessment staff have been involved and roll out of the methodology is anticipated in the next few months. The methodology, known as the CA Rapid Assessment Method (CRAM) will be part of the ADEQ bioassessment program. What are ADEQ's training needs? Are there opportunities to use CRAM by other ADEQ programs? Is it important to rename the methodology (e.g., AZRAM)? Does ADEQ want to engage in the roll out with the Corps for the 404 program?
- Currently, there are no 404 mitigation banks and mitigation is limited to the development of In Lieu Fee Programs in the state. ADEQ is a participating agency on the Corps' Interagency Review Team (IRT) to evaluate ongoing and proposed ILF programs and projects. We recommend the continued participation of ADEQ in the IRT process.
- EPA has provided technical assistance upon request concerning WOTUS jurisdictional issues and are available to provide continued assistance as requested to support ADEQ in developing a state waters program. The new rule becomes effective 60 days after publication in the FR. Under the proposed rule, ADEQ estimated an 85 to 93 percent reduction in jurisdiction.
- EPA is developing a streamflow duration assessment methodology for the Arid West and Western Mountain regions that includes AZ. This field-based tool will assist state and federal regulators in implementing the Navigable Waters Protection Rule by allowing for identification of ephemeral, intermittent, and perennial streams. EPA and the Corps will provide training on method implementation.
- ADEQ may want to consider developing a State Wetlands Protection Plan and applying for Wetland Program Development Grants (WPDG). The next R9 WPDG RFP is expected in Spring 2021.

Type	ADEQ FY20 YTD 401s Issued (March 2020) Project/Applicant	Issued
RGP 96	ADOT Pumphouse Wash Bridge	7/29/2019
NWP 37	Museum Fire Flood Mitigation (Flagstaff)	8/7/2019
RGP 96	ADOT Rio de Flag Bridge Replacement	8/12/2019
NWP 14	Copper Road Low Water Crossing Agua Fria	8/28/2019
Individual	ADOT Agua Fria River I-10 Underpass Path	8/28/2019
NWP 3	AZGFD LCR at Becker Lake	8/30/2019
RGP 96	ADOT I-10 @ Houghton Road	9/20/2019
RGP 96	Cave Canyon Creek Emergency Repairs	10/4/2019
NWP 13	Gila County Pinto/Wildcat Creek Bank Stab.	10/15/2019
Individual	ADOT SR189 Intl Border to Grand Ave Nogales	11/13/2019
Individual	Agua Fria River Sand and Gravel Mine Reclam	11/19/2019

Type	ADEQ FY19 401s Issued Project/Applicant	Issued
NWP 13	Cibola Old Channel Restoration	7/13/2018
Ind	Ina and Silverbell Gateway	7/17/2018
NWP 27	Beal Lake Conservation Area	7/26/2018
Ind	ADOT SR264	7/30/2018
Ind	LCR FRM - Corps Section 408 permit	8/6/2018
RGP 63	South Lake Road Emergency Repair	8/15/2018
NWP 4	Pena Blanca Lake	8/17/2018
NWP 27	East Verde River Habitat Restoration	9/7/2018
Ind	Laughlin-Bullhead City Bridge	10/5/2018
RGP 96	ADOT HR8416 SR 77 Gla River Bridge	11/16/2018
RGP 96	ADOT H8451 I-10 @ San Pedro River	11/20/2018
LOP	Buckskin Market Concession Removal	12/6/2018
NWP 6	ADOT Virgin River Bridge	12/26/2018
RGP 96	ADOT HWY 191 near Safford	1/17/2019
NWP 13	El Corazon Bank Stabilization and River Park	2/19/2019
NWP 5	Lewis Springs Gauge Replacement	3/4/2019
RGP 96	ADOT - Sonoita Creek Bridge in Patagonia	3/4/2019
Ind	Cavasson Mixed-Use Development	3/19/2019
RGP 96	PCFCD Sanders Road Bridge Improvements	4/17/2019
Ind	Havasupai Wash Improvements	4/23/2019
RGP 96	ADOT - Colcord Road Bridge	4/29/2019
RGP 96	ADOT - Porter and Farrell Rds Paving	5/1/2019
RGP 96	ADOT SR85 Gila River	5/8/2019

Ind	ADOT SR260 Bridge Repairs at LCR	5/10/2019
NWP 4	AZGFD Santa Fe and City Resv's	5/17/2019
RGP 96	ADOT Short Creek	5/20/2019
NWP	AZGFD Luna Lake Aerators	5/30/2019

Enforcement

DW Enforcement

- AZ continues to be a great partner in working through systems on the ETT and arsenic list.
- AZ has promptly dealt with any tips/complaints EPA has forwarded to them.

CW Enforcement

N/A